

**CHAPTER #38 - DEVELOPMENT ORDINANCE**

**ARTICLE I**

**PREAMBLE**

WHEREAS: the City of Brewer wishes to encourage development of a residential, commercial and industrial nature which would result in planned, orderly growth within the community, and

WHEREAS: Developments that are significant in nature, when judged by standards of acreage involved, total investment, and infrastructure impact, require special attention to insure State and Federal laws and regulations especially in regard to site location and the environment, and

WHEREAS: Each development involves costs, both present and future, that must be provided for in the planning effort to insure the fair and equitable treatment of the developer and the taxpayer of the City of Brewer.

NOW THEREFORE, be it ordained as follows:

SECTION 101. DEVELOPMENT POLICY. The Development Policy contained herein is hereby adopted and approved for the guidance of the City staff and any person or party who has or may have an interest in promotion good development within the City of Brewer.

This policy shall be posted, disseminated and publicized promptly upon its adoption.

SECTION 102. POLICY STATEMENT. This Policy Statement, duly adopted by the City Council of the City of Brewer, is intended for the guidance of the City Staff and any person or party proposing or contemplating a "significant development", as herein defined, whether of a residential, commercial or industrial nature in the City of Brewer.

102.1 The Development Policy (hereinafter referred to as the "Policy") shall become applicable promptly upon notification to the City by a developer of plans to actively consider or to commence a "significant development" within the City of Brewer that term shall include any development when judged by standards of acreage, involved, total investment, infrastructure impact, required compliance with certain City Ordinances, specifically Brewer's Land Use Ordinance (Chapter 24) and State and Federal laws and regulations which relate to site location and the environment.

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102.2 The developer is strongly encouraged to notify the City's Economic Development Director of its plans at an early date, on a confidential basis, to achieve the most productive results of this Policy. Since the costs that may be incurred by the development are significant in today's environment, the City desires through such early communications to contribute to a timely, cost-effective planning process. While the development design and related effort is the sole responsibility of the developer to be performed at its expense except under rare circumstances, it is anticipated that the early involvement of the City in the development process will result in a reduction of effort and associated cost for the benefit of the developer.

102.3 In regard to development costs, it is intended that the developer will pay all costs for improvements within the perimeter of the development. The City may assume certain of the costs of infrastructure improvements outside the perimeter of the development or the surrounding area in the future including, but not limited to: roads; water or sewer improvements / extensions; electrical service; and pump stations. Consideration of impact fees or other negotiated agreements to shift or share reasonable expenses shall be appropriate for this purpose.

102.3A A developer shall not be obliged to pay for any studies designed to determine if the City Sewer System can accommodate the developer's project. The developer may be asked, however, to contribute toward the costs of other infrastructure impact studies, as deemed appropriate by the City Planner and Economic Development Director.

102.4 The Development Agreement shall place reasonable and appropriate restrictions on any addition to the City's Sewer System. Permit fees, which may vary from time to time, shall be calculated on the basis of a formula, as stated in Chapter 31, Section 402 of the City of Brewer Ordinances and Codes. It is expected that developers will be responsible for the payment of impact fees for water, sewer, and other on- and off-site infrastructure improvements funded by the City of Brewer but triggered by the development, or for capital improvements that have been included by the Brewer City Council in approved Area Capital Improvement Districts (ACIDs) in which the project is located. [See Article 12 of the City of Brewer Land Use Code, Chapter 24]

102.5 The use of Tax Increment Financing (TIF) Programs should be considered where the total investments exceeds One Million (\$1,000,000) Dollars and the opportunity permits bond retirement over a reasonable period, and/or in order to achieve redevelopment

goals established by the City. Except in instances where the public benefit would be substantial, the City should not pursue any TIF

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that: (1) provides a return of more than Ninety (90%) Percent of incremental tax revenues to the developer in any given year for personal property; or (2) provides a return of more than Seventy (70%) Percent of incremental tax revenues to the developer in any given year for real estate improvements. In most cases, TIF programs should progressively reduce the percentage of tax increment returned to a developer over time, and during the life of a TIF district, the City should return no more than Fifty-Five (55%) Percent of total incremental benefits to a developer. The City may also establish TIF districts to shelter incremental revenues from developments and dedicate them to eligible City projects.

102.5A In the event that a TIF is requested by a developer and the City agrees to pursue the establishment of such an agreement, and/or when a Development requires the City to pursue economic development-related bonding arrangements on behalf of the Developer, the Developer may be asked to provide reimbursement for legal and other related costs associated with these activities according to the following schedule:

- Companies requesting the benefit of a TIF and/or related economic development bonding arrangement shall provide the City with a non-reimbursable payment of Two Thousand Five Hundred (\$2,500) Dollars in order for the City to initiate work on the TIF documentation and/or bonding effort; and
- In the event of a TIF, costs incurred by the City beyond the Two Thousand Five Hundred (\$2,500) Dollars initial payment shall be deducted from the Company's TIF reimbursement, beginning in the first year of said arrangement, until such time that all costs have been fully reimbursed to the City of Brewer; and
- In those cases where no TIF arrangement exists but legal or other expenses were incurred by the City for economic development-related bonding activities on behalf of a private company, the Company shall be responsible for reimbursing the City all legal costs above and beyond the Two Thousand Five Hundred (\$2,500) Dollars initial payment as such costs are incurred by the City of Brewer.

102.6 In the event that a proposed development, due to development timelines, requires the City to commit itself to spending funds for on- or off-site improvements prior to project approval, the City may make provision for a Development Agreement and Irrevocable Letter of Credit to guarantee that the Development be performed in accordance with mutually agreed upon terms. The amount of such Irrevocable Letter of Credit shall reasonably relate to the value of the

guaranteed performance.

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**SECTION 103 - Impact Fees in Area Capital Improvement Districts.**

The City Council may, from time to time, designate certain areas of the City as Area Capital Improvement Districts. When such a designation is made, the Planning Board shall require as a condition of the approval of any land development permit in that District the payment of impact fees for the purpose of financing certain designated infrastructure improvements in the area. Such fees shall be applied to projects (and any associated expenses) within an Area Capital Investment District in proportion to the development project's share of infrastructure costs necessitated by the development as provided by 30-A.M.R.S.A. § 4354. [See Article 12 of the City of Brewer Land Use Code, Chapter 24]